

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

BENJAMIN OROZCO,
Plaintiff,

v.

CRAIG PLACKIS,
Defendant

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Civil Action No. 1:11-cv-703-LY

**DEFENDANT’S OBJECTIONS TO PLAINTIFF’S PROPOSED WITNESSES AND
EXHIBITS**

COMES NOW, Defendant, CRAIG PLACKIS in the above-styled and numbered cause and files this, his Objections to Plaintiff’s Proposed Witnesses and Exhibits for trial of this cause, pursuant to Local Rule 16(f)(1) & (2), as follows:

I. Plaintiff’s Proposed Witnesses

Defendant objects to Plaintiff’s proposed designation of the deposition testimony of Rogelio Hernandez, “if necessary”. (*Dkt. #65, item I, #4*) Plaintiff cannot use **any** of the referenced deposition testimony pursuant to Fed. R. Civ. P. 32(a)(1)(A), as Defendant was not present or represented at the taking of the referenced deposition nor did he have reasonable notice of the deposition. In fact, Defendant was not even served with citation of Plaintiff’s First Amended Complaint naming him as a defendant in this cause until twenty (20) days after the referenced deposition had taken place. Moreover, Plaintiff has not designated any particular deposition testimony he would propose to introduce, by reference to page and line number of the testimony to be offered, as is required by Local Rule 16(e)(6). For the foregoing reasons, Defendant objects to Plaintiff’s proposed use of the deposition testimony of Rogelio Hernandez in the trial of this cause in

any way whatsoever.

II. Plaintiff's Proposed Exhibits

Defendant objects to Plaintiff's proposed exhibits as follows:

1. Defendant objects to each of Plaintiff's proposed exhibits pursuant to Fed. R. Evid. 401, insofar as Plaintiff proposes to introduce any such exhibit(s) as evidence that Defendant, Craig Plackis, was an "employer" of Plaintiff within the meaning of the Fair Labor Standards Act. That is, Defendant objects to any such exhibit(s) on the grounds of relevance, as no such exhibit(s) have any tendency to make more or less probable the issue of Defendant's status, or lack thereof, as an "employer" of Plaintiff under the Fair Labor Standards Act.
2. Defendant objects to Plaintiff's proposed exhibits; P-1, P-2, P-3, P-6, P-9 and P-10, pursuant to Fed. R. Evid. 801, 802 & 803, insofar as such exhibit(s) constitute hearsay, not subject to any exception to the rule against hearsay.

Prayer

For the reasons set forth above, Defendant respectfully requests that his Objections to Plaintiff's Proposed Witnesses and Exhibits be sustained and for such other and further relief as this Court may deem just.

Respectfully submitted,

Guillermo Ochoa-Cronfel
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By: /s/ Guillermo Ochoa-Cronfel

Guillermo Ochoa-Cronfel
State Bar No. 15175600
ATTORNEY FOR DEFENDANT

CERTIFICATE OF SERVICE

I hereby certify by my foregoing signature that the above and foregoing document has been served upon all parties listed below via the method indicated below and/or the Court's CM/ECF filing system on July 20, 2012.

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